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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,052	12/19/2000	Bruce Perlmutter	10360-079001/13361HUUS01U	4810
34645	7590	10/22/2003	EXAMINER	
JOHN C. GORECKI, ESQ. 165 HARVARD ST. NEWTON, MA 02460			DUONG, DUC T	
			ART UNIT	PAPER NUMBER
			2663	
			DATE MAILED: 10/22/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/740,052

Applicant(s)

PERLMUTTER ET AL.

Examiner

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-10, and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al (U.S. Patent 5,953,338) in view of Arrow et al (U.S. Patent 6,175,917).

Regarding to claims 1 and 10, Ma discloses a system for managing bandwidth of a remote link in a virtual private network VPN 170 (Fig. 1) comprising a server 160 (Fig. 2 col. 7 lines 5-14), a contention pool 401 or 402 having a portion of the bandwidth for at least one application group (Fig. 4A col. 11 lines 11-26), and a meter 145 for metering the packets belonging to the application group (col. 7 lines 20-38).

Ma fails to teach for the server is virtual private network VPN server configured to at least one authenticate, encapsulate, and de-encapsulate at least a portion of the packets.

However, Arrow discloses a data communication system comprising a VPN management station 160 configured for authentication, encryption, and compression of packets (Fig. 13 col. 15 lines 52-55).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of then invention, to include the VPN management station as taught by Arrow in Ma's

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system to protect and prevent unauthorized access of data traversing over public network.

Regarding to claims 3 and 12, Ma discloses a system for managing bandwidth of a remote link in a virtual private network VPN 170 (Fig. 1) comprising a server 160 (Fig. 2 col. 7 lines 5-14), a contention pool 401 or 402 having a portion of the bandwidth for at least one application group (Fig. 4A col. 11 lines 11-26), and a meter 145 for metering the packets belonging to the application group (Fig. 2 col. 7 lines 20-38), wherein the server is directly connected to other links 302 having larger bandwidth than the available bandwidth of the remote links 310-316 (Fig. 3 col. 9 lines 1-13).

Ma fails to teach for the server is virtual private network VPN server configured to at least one authenticate, encapsulate, and de-encapsulate at least a portion of the packets.

However, Arrow discloses a data communication system comprising a VPN management station 160 configured for authentication, encryption, and compression of packets (Fig. 13 col. 15 lines 52-55).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of then invention, to include the VPN management station as taught by Arrow in Ma's system to protect and prevent unauthorized access of data traversing over public network.

Regarding to claims 4 and 13, Ma discloses the packets belonging to the application group (virtual path) share a pre-defined configuration (quality of service), and see col. 11 lines 1-10.

Regarding to claims 5 and 14, Ma discloses a system for managing bandwidth of a remote link in a virtual private network VPN 170 (Fig. 1) comprising a server 160 (Fig. 2 col. 7 lines 5-14), a contention pool 401 or 402 having a portion of the bandwidth for at least one application group (Fig. 4A col. 11 lines 11-26), and a meter 145 for metering the packets belonging to the application group (Fig. 2 col. 7 lines 20-38), wherein the packets belonging to the application group contend equally for the contention pool (Fig. 4A col. 12 lines 1-18).

Ma fails to teach for the server is virtual private network VPN server configured to at least one authenticate, encapsulate, and de-encapsulate at least a portion of the packets.

However, Arrow discloses a data communication system comprising a VPN management station 160 configured for authentication, encryption, and compression of packets (Fig. 13 col. 15 lines 52-55).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of then invention, to include the VPN management station as taught by Arrow in Ma's system to protect and prevent unauthorized access of data traversing over public network.

Regarding to claims 6 and 15, Ma discloses the meter manages flow rate of the packets going through the server in either direction (Fig.1B col. 6 lines 5-19).

Regarding to claims 7 and 16, Ma discloses the meter rejects the packets if the flow rate exceeds the assigned portion of the bandwidth (col. 8 lines 1-12).

Regarding to claims 8 and 17, Ma discloses a system for managing bandwidth of a remote link in a virtual private network VPN 170 (Fig. 1) comprising a server 160 (Fig. 2 col. 7 lines 5-14), a contention pool 401 or 402 having a portion of the bandwidth for at least one application group (Fig. 4A col. 11 lines 11-26), and a meter 145 for metering the packets belonging to the application group (Fig. 2 col. 7 lines 20-38), and a user interface (client) that allows a user to specify the bandwidth of the link (Fig. 10 col. 13 lines 18-26).

Ma fails to teach for the server is virtual private network VPN server configured to at least one authenticate, encapsulate, and de-encapsulate at least a portion of the packets.

However, Arrow discloses a data communication system comprising a VPN management station 160 configured for authentication, encryption, and compression of packets (Fig. 13 col. 15 lines 52-55).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of then invention, to include the VPN management station as taught by Arrow in Ma's system to protect and prevent unauthorized access of data traversing over public network.

Regarding to claims 9 and 18, Ma discloses a system for managing bandwidth of a remote link in a virtual private network 170 (Fig. 1) comprising a server 160 (Fig. 2 col. 7 lines 5-14), a contention pool 401 or 402 having a portion of the bandwidth for at least one application group (Fig. 4A col. 11 lines 11-26), and a meter 145 for metering the packets belonging to the application group (col. 7 lines 26-38), and a user interface

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(client) that allows a user to specify the assigned portion of the bandwidth (col. 10 lines 11-55).

Ma fails to teach for the server is virtual private network VPN server configured to at least one authenticate, encapsulate, and de-encapsulate at least a portion of the packets.

However, Arrow discloses a data communication system comprising a VPN management station 160 configured for authentication, encryption, and compression of packets (Fig. 13 col. 15 lines 52-55).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of then invention, to include the VPN management station as taught by Arrow in Ma's system to protect and prevent unauthorized access of data traversing over public network.

### ***Response to Arguments***

3. Applicant's arguments filed July 31, 2003 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, on page 9 (i.e., that the claimed device sits on the end of a VPN tunnel and is configured to manage bandwidth on the VPN tunnel) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, the examiner recognizes that reference cannot be arbitrarily combined and that there must be some reason why one

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skilled in the art would be motivated to make the proposed combination of primary and secondary reference. However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken a whole would suggest to one of ordinary skill in the art. See *In re Nomiya*, 184 USPQ 607 (CCPA 1975). Regarding to applicant's argument on pages 9-10 that Arrow fails to teach a VPN server is directed to the previously cited portion. Herein, as acknowledged by the applicant the VPN management station 160 defines parameters for authentication, encryption, and compression. Thus, the management station 160 reads on to configure at least authenticate as recited in the rejected claims. The argument made by the applicant about the VPN management station 160 is not defining these parameters for itself is not considered in that the feature was not recited in the rejected claims. Regarding to applicant's argument on pages 10-11, combining Ma and Arrow would not have met all limitations of the claims, the examiner reminds the applicant that every limitation must be recited in the claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claim. Based on the reasons set forth in the above, the rejection remains held.

### **Conclusion**

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

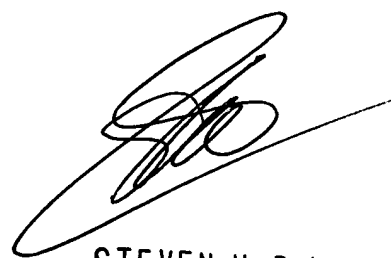
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 703-605-5146. The examiner can normally be reached on M-Th (8:30 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 703-308-5340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

DD

October 16, 2003



STEVEN H.D NGUYEN  
PRIMARY EXAMINER